

Federal Defenders OF NEW YORK, INC.

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Southern District

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Executive Director
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MEMO ENDORSED

Susanne Brody
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White Plains

January 28, 2020

BY ECF, BY HAND AND MAIL

The Honorable Vincent L. Briccetti
United States District Court Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

The sentencing in this case is already scheduled for 3/19/2020 at 10:30 am. (See Doc. #18). Defendant's sentencing submission is due 3/5/2020. Government's sentencing submission is due 3/12/2020. Any further application for an adjournment shall be made in writing by no later than 3/5/2020.

SO ORDERED:

Vincent L. Briccetti, U.S.D.J.

Date

Re: United States v. Santos Alvarado
19 Cr. 00114-001(VB)

Dear Judge Briccetti:

This letter is to request a sentencing adjournment for Mr. Santos Alvarado to March 19, 2020 at 10:30. This request is being made to allow this office to fully brief the issue of whether a New York State conviction for contempt 1st, qualifies as a crime of violence under U.S.S.G. §2K2.1(a)(4)(A). The government's position in their *Pimentel* Letter, dated June 5, 2019, is that it does qualify and therefore, the base offense level is a 20. However, probation disagrees, and in their final PSR, page 5, ¶15, has the predicate "crime of violence" as Mr. Alvarado's prior conviction of Attempted Assault 2nd. It is our position that neither of these prior convictions qualifies as crimes of violence. There are cases currently pending in the Second Circuit which may clarify the issue and we anticipate that decisions will be forthcoming which will be determinative. The government does not object to the request for the adjournment but do not agree with the reasons for the request. We thank the Court in advance for your consideration of this request.

Respectfully submitted,

Susanne Brody

cc: Benjamin Gold, A.F.D.
James Ligtenberg, A.U.S.A.
James Mullen, U.S.P.O. Specialist
Mr. Jeffery Stover